

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

MICHAEL TIMMONS,

Plaintiff,

v.

No. 2:11-cv-2705-JDT-cgc

SHELBY COUNTY, et al.,

Defendants.

**ORDER DENYING WITH PREJUDICE PLAINTIFF’S MOTION FOR AN ORDER TO
COMPEL A DISCOVERY RESPONSE**

Before the Court is Plaintiff, Michael Timmons’ Motion to Request Issue of Subpoena (Docket Entry “D.E.” #67) filed March 20, 2013 and Plaintiff’s Motion to Request Issue of Subpoena filed March 27, 2013 (#72). The instant motions were referred to the United States Magistrate Judge for disposition. (D.E. #69, #73).

I. March 20, 2013 Motion to Request Issue of Subpoena

Plaintiff’s March 20, 2013 Motion to Request Issue of Subpoena (D.E. #67) again requests the Court to direct the Clerk to issue a subpoena for his medical records. The Court has already twice considered this issue, first denying Plaintiff’s motion without prejudice for failure to consult and warning Plaintiff of the requirements of the Local Rules (D.E. #56), and second denying Plaintiff’s motion with prejudice for continued failure to comply with the Local Rules despite the Court’s admonishment. (D.E. #63). Plaintiff has now refiled the instant motion seeking the same relief, and Plaintiff has also filed two other documents seeking to reargue this issue. (D.E. #65,

#70). Most egregiously, Plaintiff has again filed a Certificate of Service that states that his consultation was merely mailing a copy of his motion to opposing counsel, despite the Court's extensive explanation in its February 21, 2013 Order that this does not constitute consultation. As the Court has already ruled upon this motion, the instant motion is again DENIED with prejudice. A denial with prejudice means that Plaintiff may not refile this motion again under any circumstances, as it has been permanently resolved in Defendants' favor. Plaintiff is ORDERED not to file any motion or document continuing to seek the relief he has requested and that the Court has denied.

II. March 27, 2013 Motion to Request Issue of Subpoena

Plaintiff's March 27, 2013 Motion to Request Issue of Subpoena (D.E. #72) requests that the Court direct the Clerk to issue a subpoena to compel "ex-Defendants" Shelby County and Sheriff William Oldham to respond to Plaintiff's discovery request pursuant to Rule 34 of the Federal Rules of Civil Procedure. In his Certificate of Consultation, Plaintiff states that he has "attempted to consult with opposing counsel J. Michael Fletcher regarding motions which he agreed to meet with me here at the jail regarding any motions that I intend to file which he has failed to meet with me." Once again, opposing counsel has affirmed that Plaintiff did not make any attempt to consult with him before filing these motions, which opposing counsel appropriately notes is a "repeated occurrence in Plaintiff's filings."

Plaintiff has been informed of this requirement on multiple occasions by the Court, including in its January 17, 2013, February 21, 2013, and March 8, 2013 Orders. Plaintiff has been warned that his "failure to follow the Local Rules and the Federal Rules of Civil Procedure will result in Plaintiff's motions being denied with prejudice." (Mar. 8, 2012 Order at 2). Plaintiff has further

been warned that “the Court may order or recommend more severe sanctions as appropriate, including a recommendation that Plaintiff’s Complaint be dismissed for failure to comply with the Court’s Orders.” (*Id.*) Accordingly, Plaintiff’s March 27, 2013 Motion to Request Issue of Subpoena is DENIED with prejudice. A denial with prejudice means that Plaintiff may not refile this motion again under any circumstances, as it has been permanently resolved in Defendants’ favor. In the event that Plaintiff files any further motion with blatant disregard for the Local Rules, the Federal Rules of Civil Procedure, or any Orders of this Court, the Court will order or recommend more severe sanctions.

IT IS SO ORDERED this 23rd day of May, 2012.

s/ Charmiane G. Claxton
CHARMIANE G. CLAXTON
UNITED STATES MAGISTRATE JUDGE